

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

KENNETH M. GRAY,

Petitioner,

v.

CHERRYL EPPLET, JON LITSCHER, and
BRAD SCHIMEL,

Respondent.

ORDER

18-cv-466-wmc

Kenneth Gray, a Wisconsin prisoner, has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Gray challenges his June 28, 1996, judgment of conviction entered by the Circuit Court for Milwaukee County on one count of first degree reckless homicide. This conviction was the subject of a habeas petition filed by petitioner in the Eastern District of Wisconsin in May 2010, *Gray v. Smith*, 10-cv-421-RTR (E.D. Wis. Feb. 10, 2011). United States District Judge Rudolph T. Randa dismissed that petition as untimely on February 10, 2011. *Id.*, dkt. # 20. Accordingly, the instant petition is petitioner's second petition challenging his June 1996 conviction.

Under 28 U.S.C. § 2244(b)(3)(A), a petitioner may not file a second or successive application for habeas relief in the district court unless he first seeks and obtains an order from the appropriate court of appeals authorizing the district court to consider the application. Petitioner has not obtained an order from the Court of Appeals for the Seventh Circuit authorizing him to file his petition. Accordingly, this court must dismiss the petition.

ORDER

IT IS ORDERED that the petition of Kenneth Gray for a writ of habeas corpus is DISMISSED WITHOUT PREJUDICE for petitioner's failure to obtain the authorization required by 28 U.S.C. § 2244(b)(3)(A).

Entered this 4th day of October, 2018.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge